

Decision 06-06-018 June 15, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on policies and practices for advanced metering, demand response, and dynamic pricing.

Rulemaking 02-06-001
(Filed June 6, 2002)

**OPINION GRANTING INTERVENOR COMPENSATION TO
THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS
TO DECISION (D.) 04-01-012, D.05-07-011, D.05-01-056, and D.05-11-009**

TABLE OF CONTENTS

Title	Page
OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION (D.) 04-01-012, D.05-07-011, D.05-01-056, AND D.05-11-009.....	2
1. Background.....	2
2. Requirements for Awards of Compensation.....	4
3. Procedural Issues.....	5
4. Substantial Contribution	6
(i) AMI business case analysis framework.....	7
(ii) SPP program budgets, design and result analysis	9
(iii) Demand response programs for 2004.....	10
(iv) Demand response programs for 2005.....	11
(v) Real time pricing tariff rate design issues.....	12
5. Reasonableness of Requested Compensation	13
Hours and Costs Related to and Necessary for Substantial Contribution	15
Market Rate Standard	17
Productivity	19
Direct Expenses.....	20
6. Award.....	20
7. Waiver of Comment Period	22
8. Assignment of Proceeding	22
Findings of Fact.....	22
Conclusions of Law	22
ORDER	24

**OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY
REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO
DECISION (D.) 04-01-012, D.05-07-011, D.05-01-056, AND D.05-11-009**

This decision awards The Utility Reform Network (TURN) \$204,546.05 in compensation for its substantial contributions to Decision (D.) 04-01-012, D.05-01-056, D.05-07-011, and D.05-11-009. This proceeding is closed.

1. Background

The Commission began this rulemaking as a policymaking forum, coordinated with decision makers from the California Energy Commission (CEC) and the California Consumer Power and Conservation Financing Authority (CPA) and supported by agency staff, to develop demand response as a resource to enhance electric system reliability, reduce power purchase and individual consumer costs, and protect the environment. The desired outcome of this effort was the development of a broad spectrum of demand response programs and tariff options available to customers who make their demand-responsive resources available to the electric system.

The Assigned Commissioner and assigned Administrative Law Judge (ALJ) in this proceeding established three working groups to support this effort. Working Group 1 (WG1) is comprised of agency decision makers and supported by the assigned ALJ and agency advisory staff, and provided overall policy guidance to parties regarding the development of demand responsiveness in California. Working Group 2 (WG2) is comprised of active parties interested in the development of demand response programs for large customers. Working Group 3 (WG3) is comprised of active parties interested in developing demand response programs for small commercial and residential customers.

The first phase of this proceeding resulted in two primary decisions: (1) D.03-03-036 adopted the Statewide Pricing Pilot (SPP) designed to test the

impact of time-of-use and critical peak pricing tariffs on residential and small commercial customer usage patterns; and (2) D.03-06-032 adopted demand response program plans for customers with load exceeding 200 Kilowatt (kW), and established annual megawatt targets to be met through demand response.

The November 24, 2003, scoping ruling of the assigned Commissioner set out the scope of Phase 2 of this proceeding, and identified the following issues as its focus:

- Analysis Framework for the Advance Metering Infrastructure (AMI) Business Case, Utilizing Utility, Customer and Societal Perspectives;
- AC Cycling as a Control Technology that Interfaces with AMI Elements;
- Real Time Pricing (RTP) Tariff Development;
- Ongoing Implementation Issues, specifically, resolution of:
 - (1) Program disputes between the Department of Water Resources (DWR) and the utilities;
 - (2) delineated agricultural customer participation issues; and
 - (3) delineated metering service “clean-up” issues.
- A planning process for any near term adjustments in 2004 goals as part of achieving 2007 demand response targets.

Phase 2 resulted in four decisions: (1) D.04-01-012 resolved issues related to the SPP budget for 2004; (2) D.05-01-056 resolved issues regarding demand response programs for 2005; (3) D.05-07-011 addressed issues related to the incremental SPP budget for 2005; and (4) D.05-11-009 closed the proceeding. In addition, Phase 2 also resulted in the adoption, by joint ruling of the assigned Commissioner and ALJ (July 21, 2004), of a business case analysis framework for deploying AMI for residential and small business customers.

2. Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC), or in special circumstances at other appropriate times that we specify. (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)
6. The claimed fees and costs are reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to

others with comparable training and experience (§1806), and productive (D.98-04-059).

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6.

3. Procedural Issues

The prehearing conference in this matter was held on July 16, 2002. TURN timely filed its NOI on August 15, 2002.

Section 1802(b)(1) defines a “customer as: (A) a participant representing consumers, customers or subscribers of a utility; (B) a representative who has been authorized by a customer; or (C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers.”

In its NOI, TURN asserted financial hardship. On September 16, 2002, Administrative Law Judge (ALJ) Carew ruled that TURN is a customer pursuant to §1802(b)(1)(C), and meets the financial hardship condition, pursuant to §1804(b)(1), through a rebuttable presumption of eligibility, because TURN met this requirement in another proceeding within one year of the commencement of this proceeding (ALJ Ruling dated December 19, 2001 in Application (A.) 01-09-003).

TURN filed its request for compensation on January 20, 2006, within 60 days of D.05-11-009 being issued.¹ In view of the above, we affirm the ruling of the ALJ and find that TURN has satisfied all the procedural requirements necessary to make its request for compensation.

¹ No party opposes the request.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (*See* § 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (*See* §§ 1802(i) and 1802.5.) As described in §1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.²

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution. With this guidance in mind, we turn to the claimed contributions TURN made to the proceeding.

² D.98-04-059, 79 CPUC2d, 628 at 653.

TURN states that its participation includes the filing of numerous comments filed in the proceeding and well as active involvement in the three working groups. Specifically, TURN describes its involvement and contribution to Commission decisions with reference to the following subject areas: (i) the AMI business case analysis framework, (ii) the SPP program budgets, design and results analysis, (iii) demand response programs for 2004, (iv) demand response programs for 2005, and (v) rate design issues concerning a real time pricing tariff.

(i) AMI business case analysis framework

The September 19, 2003, “Assigned Commissioner and Administrative Law Judge’s Ruling Setting Forth Scope of Phase 2” provided a draft framework for analyzing the business case structure for AMI deployment. TURN filed an extensive technical review of the draft framework, including specific recommendations and quantification of the various costs and benefits included in the draft framework.

In addition, through its consultant, TURN participated in the Business Case Framework Subcommittee and in WG 3 workshops, which led to the Business Case Framework Subcommittee’s draft report presenting its proposal to joint agency staff. In turn, the joint agency Staff Report proposed an analysis framework for evaluating AMI deployment based substantially on TURN’s recommendations and the framework put forth by the Business Case Framework Subcommittee.

The July 21, 2004, joint ruling of the assigned Commissioner and ALJ adopted the Staff Report’s analysis framework, thereby resolving the issue. The ruling stated (at p. 2) that a Commission decision was unnecessary because the framework “is designed to provide for numerous scenarios to be analyzed prior

to determining whether to direct a particular AMI deployment approach.” As the Commission noted in D.05-11-009, with the adoption of the AMI business case analysis framework and the utilities having filed separate applications with business case analysis of AMI projects, the work laid out for resolution in Phase 2 is substantially complete.

Although parties are normally compensated for substantive contributions to final orders, we will compensate TURN for its contribution on the issue of AMI business case analysis framework because the nature of this contribution had virtually the same impact as prevailing on a substantive issue. The Commission has found that contributing to ALJ rulings that are as substantive as final orders constitutes a substantial contribution to a Commission decision. (D.00-07-016, pp. 8-9.) Here, the July 21, 2004, joint ruling substantively resolved the issue as it was identified in the September 19, 2003, joint ruling setting forth the scope of Phase 2 of the proceeding. As this issue (among others) was resolved, the Commission was able to issue D.05-11-009 identifying future activities for addressing continuing issues in other proceedings, and closing this proceeding.

It is reasonable to compensate TURN for its working group activity. The Commission has encouraged the use of working groups to resolve complex issues among multiple stakeholders (D.96-08-040, 67 CPUC 2d 562, 568) and has held that compensation for working group activities is consistent with these goals (D.97-02-047, 71 CPUC 2d 100, 102.) Likewise, it is reasonable to award TURN full compensation for this work. The Commission has awarded full compensation even where the intervenor’s positions were not adopted in full, especially in proceedings with a broad scope. (D.98-04-028, 79 CPUC 2d 570, 573-574.) Although the adopted AMI analysis framework does not reflect all of

TURN's recommendations, TURN achieved a high level of success on the issues it raised.

(ii) SPP program budgets, design and result analysis

After the Commission authorized the utilities to conduct the SPP (D.03-03-036), WG 3's Evaluation Subcommittee conducted numerous and extensive meetings concerning the proper methodology for analyzing the SPP's results. As the Commission stated, "The work of the evaluation subcommittee both contributed substantive[ly] to the final SPP Report issued by Charles River Associates as well as helped ensure broad support for the results of the consultant evaluation." (D.05-11-009, p. 4.)

TURN states that, aside from the utilities and the hired consultants, it was the primary party involved in evaluating all aspects of design, implementation and evaluation of the SPP. TURN participated in WG3 and its Evaluation Subcommittee meetings, focusing on issues of quantification of demand response and the validity of the Charles River Associates' method. Although there are no formal filings on record that reflect the extent of TURN's work in the Evaluation Subcommittee, TURN states that its contribution to the analysis is reflected in the robust results of the Charles River Associates' final reports and the general acceptance of those results.

TURN also states that it participated in a September 30, 2003, Joint Agency Workshop conducted by WG 1. Specifically, TURN prepared a written proposal and participated at the workshop by addressing issues concerning the expected demand response due to critical peak pricing and the cost-effectiveness of universal meter deployment for residential customers. TURN states that, while no Commission action directly resulted from the Joint Agency Workshop, these activities were directly part of the policy-level work

related to analyzing the SPP and should be compensated for the same reasons as TURN's other activities.

In D.05-11-009, we specifically recognized the contributions of the Evaluation Subcommittee to the final SPP report. Consistent with Commission precedent discussed earlier, it is reasonable to compensate TURN for its working group activities which contributed to our goal of promoting demand response efforts outside of the formal Commission process, as memorialized in D.05-11-009. On this basis, we find that TURN's efforts on these issues also contributed to D.04-01-012, which approved the 2004 SPP budget, and D.05-07-011, which authorized an annual budget for the continuation of the SPP. Together, these decisions represent the Commission's resolution of the issues regarding SPP budgets, design and results analysis.³

(iii) Demand response programs for 2004

As discussed in the November 23, 2004, scoping ruling, one of the issues in this proceeding was the adoption of a planning process for near term adjustments in 2004 goals as part of achieving 2007 demand response targets. Consistent with the February 25, 2004, ruling of the Assigned Commissioner and the authority granted in Ordering Paragraph 27 of D.03-06-032, most of the issues regarding proposed modifications to achieve the 2004 goal were resolved by the June 2, 2004, ALJ ruling.

³ In describing its substantial contribution to Commission decisions, TURN references its February 17, 2005, letter to assigned Commissioner Peevey protesting the utilities' requested \$1.49 million incremental budget, and notes that D.05-07-011 rejected funding of \$134,000 for the two projects cited by TURN as not warranting additional evaluation. There is no record basis for finding that this particular effort specifically contributed to D.05-07-011. Nevertheless, it is compensable as a reasonable cost of participation on the issue, as discussed further below.

TURN filed comments and reply comments opposing a number of the utilities' proposals. TURN states that, although the ALJ ruling did not adopt all of TURN's recommendations, the ruling also did not adopt several proposed utility modifications which TURN opposed.

We find that TURN substantially contributed to the June 2, 2004, ruling. Although the ALJ's ruling does not reflect all of TURN's recommendations, TURN achieved a high level of success on the issues it raised. Under these circumstances where the ruling essentially resolved key issues in the proceeding, TURN's contribution to the ALJ ruling constitutes a substantial contribution to the Commission's ultimate decision closing the proceeding, D.05-11-009.

(iv) Demand response programs for 2005

The utilities filed proposals for funding over \$500 million in demand response programs for 2005-2008, followed by three additional filings proposing additional programs. TURN filed comments on each of the utility filings. Although the Commission did not adopt all of TURN's recommendations, TURN states that the Commission adopted several of the most important recommendations, including TURN's primary recommendation that the Commission approve programs and budgets only for 2005 due to an inadequate record to support multi-year funding.

The Commission has awarded full compensation even where the intervenor's positions were not adopted in full, especially in proceedings with a broad scope. (*See* D.98-04-028, 79 CPUC2d 570, 573-574.) Here, TURN achieved a high level of success on the issues it raised. In the areas where we did not adopt TURN's position in whole or in part, we benefited from TURN's analysis and discussion of all of the issues which it raised.

(v) Real time pricing tariff rate design issues

As discussed in the November 23, 2004, scoping ruling, one of the identified goals of Phase 2 was the development of an RTP tariff, making use of the WG 2 structure. TURN participated in WG 2 activities related to rate design issues concerning an RTP tariff, and filed comments in response to specific questions posed by the ALJ ruling of March 15, 2004 on the subject. TURN's primary recommendation was "that the CPUC not develop RTP tariffs at this time;" TURN also recommended that the Commission undertake activities "to encourage and develop demand response as a flexible resource" rather than develop RTP solely for the sake of sending ostensibly more accurate price signals. The Commission ultimately deferred adoption of an RTP tariff due to the present lack of a meaningful price signal in the California Independent System Operator market upon which RTP could be established, disagreement among parties on rate design, and the difficulty of designing rates given the non-bypassable DWR charges. (D.05-11-009, p. 7.) The Commission also decided to "focus our efforts with respect to tariff offerings on reviewing the applications of each utility to implement a critical peak pricing tariff (CPP) for customers with load of over 200 kW." (*Id.*, p. 8.)

We find that TURN substantially contributed to the Commission's determination in D.05-11-009 to defer consideration of an RTP tariff and to focus on other tariff offerings.

5. Reasonableness of Requested Compensation

After we have determined the scope of a customer's substantial contribution, we then look at whether the compensation requested is reasonable. TURN requests \$214,568.55⁴ for its participation in this proceeding, as follows:

⁴ TURN requested \$218,817.95 in its application as originally filed. However, the supporting documentation indicates that this figure should be \$218,818.55. By its second amendment to its request for compensation filed April 18, 2006, TURN reduced its request by \$4,250, as reflected in the table.

TURN EXPENSES:				
Attorney	Billing Period	Hourly Rate	Hours Claimed	Amount Claimed
M. Hawiger	2003	\$250	9	\$ 2,250.00
	2004	\$270	109.75	\$ 29,632.50
	2005	\$320	38.5	\$ 12,320.00
(compensation request)	2006	\$320	7.38 ⁵	\$ 2,360.00
B. Finkelstein	2004	\$395	0.5	\$ 197.50
(compensation request)	2005	\$395	0.75 ⁶	\$ 296.25
M. Florio	2005	\$470	1	\$ 470.00
S. Myers	2003	\$325	1.5	\$ 487.50
	2004	\$350	32.25	\$ 11,287.50
Subtotal				\$ 59,301.25
Direct Expenses				\$ 1,027.01
Total (TURN)				\$ 60,328.26
CONSULTING EXPENSES:				
Expert Time	Billing Period	Hourly Rate	Hours Claimed	Amount Claimed
W. Marcus	2003	\$185	2.16	\$ 399.60
	2004	\$195	15.98	\$ 3,116.10
	2005	\$210	2.83	\$ 594.30
J. Nahigian	2003	\$125	26.75	\$ 3,895.00
	2004	\$140	358.25	\$ 55,528.75
	2005	\$155	20.75	\$ 2,905.00
G. Schilberg	2003	\$140	30.73	\$ 4,302.20
	2004	\$150	478.57	\$ 71,785.50
	2005	\$165	65.58	\$ 10,820.70
Subtotal				\$153,347.15
Direct Expenses				\$ 893.14
Total (consulting)				\$154,240.29
GRAND TOTAL				\$214,568.55

⁵ This figure represents 50% of actual hours expended.

⁶ *Id.*

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below:

**Hours and Costs Related to and
Necessary for Substantial Contribution**

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

TURN documented its claimed attorney hours by presenting a daily breakdown of the hours by issue, accompanied by a brief description of each activity. Specifically, TURN breaks down its attorney hours into the following issue categories: (1) business case analysis framework, (2) evaluation of the SPP, (3) evaluation of the 2004 and 2005-2008 demand response programs, respectively, (4) review of CEC materials responding to Senate Bill (SB) 1976, (5) on-going activities of the WG 1 and 2 established during Phase 1, (6) Senate Bill (SB) 1976, (7) Application (A.) 05-06-028, (8) general participation time that is not allocable by issue, and (9) work that covered a number of issues in a single day such that allocation was not practicable. With respect to the issue category designated as "A.05-05-028," TURN states that, pursuant to the July 20, 2005 ruling of ALJ Cooke in A.05-03-015, TURN defers its request for compensation related to an evaluation of the utilities' preliminary business cases, originally filed in this rulemaking in October 2004 and updated in March 2005, to the utilities' respective AMI proceedings. Consistent with this representation, it appears that TURN does not claim compensation for any attorney hours designated as "A.05-06-028" or described as being associated with this activity.

In addition, in its second amendment to this request, TURN withdraws its request for compensation for activity associated with SB 1976, specifically reducing its request (with respect to attorney hours) by 12 hours for work by attorney Hawiger designated as “SB 1976.” The hourly breakdown reasonably supports the remaining claim for total attorney hours.

TURN does not provide a similar breakdown of its consultant hours by issue category and, as a result, it does not support its claim for total consultant hours. In withdrawing its request for compensation for activity associated with SB 1986, TURN reduced its request (with respect to consultant hours) by 10 hours for work by consultant Nahigian. However, we identify 15 hours described in the supporting documentation as pertaining to SB 1976 activity. Specifically, although only 10 hours are explicitly described as pertaining to SB 1976, an additional five hours are described as “meet w/CEC commissioners on advanced metering” on August 7, 2003, which corresponds to an entry for certain withdrawn attorney hours that are designated as “SB 1976” and described in part as “Mtg/CEC Comr. Geesman and Rosenfeld re SB 1986 report” occurring on August 7, 2003.

In addition, although TURN does not claim compensation for consultant hours designated as “BCA”⁷ pursuant, presumably, to the July 20, 2005 ruling of ALJ Cooke in A.05-03-015 referring such requests to the utilities’ respective AMI proceedings, the consultant hours so designated fail to include several consultant hours that appear to be associated with this activity. For example, although the documentation of consultant Schilberg’s hours designates an October 28, 2004,

⁷ We assume this acronym stands for Business Case Analysis.

meeting with consultant Marcus as “BCA,” the documentation of consultant Marcus’ hours does not so designate that same meeting. Similarly, although the documentation of consultant Schilberg’s hours designates a November 9, 2004, “strategy talk with Marcel, Jeff” and an April 13, 2005, “PG&E AMI meeting” as “BCA,” the documentation of consultant Nahigian’s hours does not so designate those hours.

We subtract these consultant hours from TURN’s request. With these adjustments, since we found that TURN’s efforts made a substantial contribution to the delineated decisions on the issues of business case analysis framework, SPP evaluation, and the evaluation of the 2004 and 2005-2008 demand response programs, we award TURN compensation for its participation on those issues, including participation in the relevant working group activities.

We also include in TURN’s award compensation for the costs associated with its February 17, 2005 letter to Assigned Commissioner Peevey protesting the utilities’ compliance filing requesting \$1.49 million incremental budget for SPP evaluation activities. Although, strictly speaking, this letter was not a part either of the formal proceeding or a working group activity, it was reasonably related to TURN’s efforts on this issue, particularly as there was no apparent mechanism for TURN to otherwise address the utilities’ compliance filing.

Market Rate Standard

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

TURN requests hourly rates that we have previously approved for all of its attorneys and consultants, except in the two cases described below, and we affirm them here.⁸

For attorney Myers, TURN requests we adopt an hourly rate of \$350 for 2004. This rate represents an 8% increase over Myers' approved 2003 rate consistent with Resolution ALJ-184, and we adopt it here.

For attorney Hawiger, TURN requests that we increase his 2005 rate to \$320, a \$50 per hour increase over the authorized 2004 rate. TURN states this increase is consistent with the two of the three conditions identified in D.05-11-031, which established principles and approved ranges to guide authorized hourly rates for work performed in 2005. We disagree, and adopt Hawiger's previously authorized rate of \$270 for his work in 2005 and for his work in 2006 on the compensation request (discounted by 50%).⁹

Hawiger does not qualify for an hourly rate increase by virtue of having moved to a higher level of qualification (in this case, from 8-12 years to 13-plus years of experience), which is the second of the three conditions identified in D.05-11-031 justifying a rate increase. Hawiger completed law school in 1993. Thus, in 2005, Hawiger was still within the 8-12 year category and would not have moved to a higher level of qualification based on experience, as described in D.05-11-031. Although, arguably, Hawiger may have moved to a higher level of qualification with respect to his work performed in 2006, the

⁸ D.03-10-011, D.05-06-031, D.06-04-012, and D.06-04-029.

⁹ This is consistent with D.06-04-029, in which the Commission likewise denied TURN's request to increase Hawiger's 2005 hourly rate to \$320, and instead adopted his previously authorized rate of \$270 per hour.

requested hours for 2006 are minor and relate solely to work performed in preparing this compensation request. We will therefore use the current 2005 rate without setting a precedent for substantive work performed in 2006.

Productivity

Decision 98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

TURN's participation was productive in that its quantifiable impact alone far exceeded fees and other costs, and the unquantifiable impact of its participation assisted in promoting demand response efforts in California. TURN states that the rejection of the utilities' proposed standalone PEAK program, Pacific Gas and Electric Company's Clean Gen program, Southern California Edison Company's request for incremental O&M for RTEEM, and SDG&E's 20/20 power pledge program – all of which TURN opposed – produced a quantifiable benefit of approximately \$9 million. In addition, TURN's participation resulted in rejecting approval without proper review of multi-year funding of over \$500 million for various programs. Although, as TURN concedes, it is not possible to quantify the benefits of the work done on developing the business case analysis framework and evaluating the SPP, we agree with TURN that this work will eventually result in benefits to ratepayers by improving the accuracy of any cost effectiveness evaluation of future AMI proposals. Thus, we find that TURN's efforts have been productive.

Direct Expenses

The itemized direct expenses submitted by TURN include costs for travel, photocopying, postage, telephone/fax, messenger services] and total \$1,920.15. The cost breakdown included with the request shows the miscellaneous expenses to be commensurate with the work performed. We find these costs reasonable.

6. Award

As set forth in the table below, we award TURN \$204,546.05.

TURN EXPENSES:				
Attorney	Billing Period	Hourly Rate	Hours Claimed	Amount Claimed
M. Hawiger	2003	\$250	9	\$ 2,250.00
	2004	\$270	109.75	\$29,632.50
	2005	\$270	38.5	\$10,395.00
(compensation request)	2006	\$135	14.75 ¹⁰	\$ 1,991.25
B. Finkelstein	2004	\$395	0.5	\$ 197.50
(compensation request)	2005	\$197.50	1.50 ¹¹	\$ 296.25
M. Florio	2005	\$470	1	\$ 470.00
S. Myers	2003	\$325	1.50	\$ 487.50
	2004	\$350	32.25	\$11,287.50
Subtotal				\$57,007.50
Direct Expenses				\$ 1,027.01
Total (TURN)				\$58,034.51
CONSULTING EXPENSES:				
Expert Time	Billing Period	Hourly Rate	Hours Claimed	Amount Claimed
W. Marcus	2003	\$185	2.16	\$ 399.60
	2004	\$195	14.98	\$ 2,921.10
	2005	\$210	2.83	\$ 594.30
J. Nahigian	2003	\$125	21.75	\$ 2,718.75

¹⁰ We discount the hourly rate by 50% and indicate the actual hours expended, rather than discounting the hours expended as TURN does in its request.

¹¹ *Id.*

	2004	\$140	356.75	\$ 49,945.00
	2005	\$155	13.75	\$ 2,131.25
G. Schilberg	2003	\$140	30.73	\$ 4,302.20
	2004	\$150	478.57	\$ 71,785.50
	2005	\$165	65.58	\$ 10,820.70
Subtotal				\$145,618.40
Direct Expenses				\$ 893.14
Total (consulting)				\$146,511.54
GRAND TOTAL				\$204,546.05

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on April 5, 2006, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison to allocate payment responsibility among themselves based upon their California-jurisdictional electric revenues for the 2004 calendar year, to reflect the year in which the Phase 2 activity primarily occurred.

We remind all intervenors that Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

7. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

8. Assignment of Proceeding

Michael Peevey is the Assigned Commissioner, and Michelle Cooke is the assigned ALJ in this proceeding.

Findings of Fact

1. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. TURN made a substantial contribution to D.04-01-012, D.05-07-011, D.05-01-056, and D.05-11-009 as described herein.
3. TURN requested hourly rates for its representatives that, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.
4. TURN requested related expenses that are reasonable and commensurate with the work performed.
5. The total of the reasonable compensation is \$204,546.05.
6. The appendix to this opinion summarizes today's award.

Conclusions of Law

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation (as adjusted herein), incurred in making substantial contributions to D.04-01-012, D.05-01-056, D.05-07-011, and D.05-11-009.

2. TURN should be awarded \$204,546.05 for its contribution to D.04-01-012, D.05-07-011, D.05-01-056, and D.05-11-009.

3. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.

4. This order should be effective today so that TURN may be compensated without further delay.

5. Rulemaking 02-06-001 should be closed.

ORDER

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded \$204,546.05 as compensation for its substantial contributions to Decisions (D.) 04-01-012, D.05-01-056, D.05-07-011, and D.05-11-009.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company, Southern California Edison Company and Pacific Gas and Electric Company shall pay TURN their respective shares of the award. Each utility's share shall be calculated based on their California-jurisdictional electric revenues for the 2004 calendar year. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning April 5, 2006, the 75th day after the filing date of TURN's request for compensation, and continuing until full payment is made.
3. Rulemaking 02-06-001 is closed.

This order is effective today.

Dated June 15, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

Appendix

Compensation Decision Summary Information

Compensation Decision:	D0606018	Modifies Decision?
Contribution Decision(s):	D0401012, D0507011, D0501056, D0511009	
Proceeding(s):	R0206001	
Author:	ALJ Cooke	
Payer(s):	San Diego Gas & Electric Company, Pacific Gas and Electric Company, Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	1/20/1006	\$214,568.55	\$204,546.05.	no	failure to justify hourly rate, work performed in another proceeding.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	The Utility Reform Network	\$250	2003	\$250
Marcel	Hawiger	Attorney	The Utility Reform Network	\$270	2004	\$270
Marcel	Hawiger	Attorney	The Utility Reform Network	\$320	2005	\$270
Marcel	Hawiger	Attorney	The Utility Reform Network	\$320	2006	\$270
Robert	Finkelstein	Attorney	The Utility Reform Network	\$395	2004	\$395
Robert	Finkelstein	Attorney	The Utility Reform Network	\$395	2005	\$395
Michel	Florio	Attorney	The Utility Reform Network	\$470	2005	\$470
Sara	Myers	Attorney	The Utility Reform Network	\$325	2003	\$325
Sara	Myers	Attorney	The Utility Reform Network	\$350	2004	\$350
William	Marcus	Economist	The Utility Reform Network	\$185	2003	\$185
William	Marcus	Economist	The Utility Reform Network	\$195	2004	\$195
William	Marcus	Economist	The Utility Reform Network	\$210	2005	\$210
Jeffrey	Nahigian	Economist	The Utility Reform Network	\$125	2003	\$125
Jeffrey	Nahigian	Economist	The Utility Reform Network	\$140	2004	\$140
Jeffrey	Nahigian	Economist	The Utility Reform Network	\$155	2005	\$155
Gayatri	Schilberg	Economist	The Utility Reform Network	\$140	2003	\$140
Gayatri	Schilberg	Economist	The Utility Reform Network	\$150	2004	\$150
Gayatri	Schilberg	Economist	The Utility Reform Network	\$165	2005	\$165